EXHIBIT 20

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: **PITTSBURGH CORNING CORPORATION,** **Debtor**	**2:04cv1199** **Electronic Filing** **(Bankruptcy No. 00-22876-JFK)**

MEMORANDUM ORDER

AND NOW, this 7th day of December, 2005, upon due consideration of the issues raised on appeal by appellants Official Committee of Unsecured Asbestos Creditors and Future Claimants' Representative, and the parties' submissions in conjunction therewith, IT IS ORDERED that the order of April 27, 2004, entered on the docket of the United States Bankruptcy Court for the Western District of Pennsylvania by the Honorable Judith K. Fitzgerald at the above referenced proceeding – denying appellants' application to employ Gilbert Heintz & Randolph, LLP ("GHR"), as special insurance counsel – be, and the same hereby is, affirmed.

The matters raised on appeal are misplaced for several reasons. First, the objecting insurers have the right to raise an issue under the applicable Rules of Professional Conduct and request an adjudication by the court provided they have a reasonable belief that a violation of the Rules of Professional Conduct has been committed or would be brought about in the course of the proceedings before the court. In re Congoleum Corp., 426 F.3d 675, 687 (3d Cir. 2005). They thus had standing to object to the application to employ GHR and have standing to defend the order denying that application. Id.

Second, Judge Fitzgerald did not confuse or misunderstand the limited nature of GHR's prior and proposed representations. To the contrary, she insightfully examined the nature, scope and specific components of the representations in addition to their mere overall objectives. This "careful and comprehensive scrutiny" fulfilled the "high order" of court

supervision required to assure the mandates of section 327(a) and Rules 1.7 and 1.9 are scrupulously followed. See id. at 693-94. Clearly, Judge Fitzgerald had a duty to consider all the evidence concerning GHR's activities in representing Corning and all of the undertakings that would follow from being appointed to represent the present and future asbestos claimants in pursuing the potential insurance proceeds. Cf. id. at 691 ("This error was the result, to a great extent, of the court's refusal to consider evidence about Gilbert's activities in negotiating and preparing the plan before its filing."). And a review of the findings of fact leading to the determination below makes painstakingly clear that GHR "cannot meet the Bankruptcy Code's requirement of disinterestedness contained in section 327(a)." Id. at 692.

Third, appellants' attempt to avoid the import of the interminable conflict that would arise from the appointment through Corning's limited waiver falls woefully short of the mark. As a general matter "waivers under § 327(a) are ordinarily not effective." Id. at 692 (citing In re Grante Partners LP, 219 B.R. 22, 34 (Bankr. S.D. N.Y. 1998) and Collier on Bankruptcy ¶ 328.05[3] (15th ed.)). Corning's waiver in effect acceded to the proposed representation only "to the extent [Scott Gilbert and GHR] were not otherwise precluded from doing so by reason of their ethical or legal responsibilities." This waiver did very little, if anything, to remove the inhibiting baggage that GHR acquired from its pre-application representation of Corning. Thus, GHR could not deliver the complete "disinterestedness" necessary for unquestionably effective representation of the current and future asbestos claimants. Furthermore, the record fails to contain the detailed information necessary to establish that either Corning or the individual claimants themselves gave "truly informed consent." Id. Given the "many hats" that GHR had worn and would be wearing "throughout the pre- and post-petition process," it cannot be assumed on the limited information placed in the record that all claimants have made a knowing, voluntary and intelligent waiver. Compare id. at 691 ("We conclude that Gilbert did not receive effective waivers from the claimants it represented and, therefore, acted in violation of the Rules of Professional Conduct."). Thus, the purported waivers did not overcome the actual and potential conflicts of interest which dictated the denial of appellants' application to

retain GHR.

In short, we find no error in the factual and legal determinations of the Bankruptcy Court. It follows that the application to employ GHR properly was denied. Accordingly, the order of April 27, 2004, must be affirmed; and

IT FURTHER IS ORDERED that the cross appeal of Lumbermens Mutual Casualty Company and ACE USA insurers be, and the same hereby is, dismissed as moot. See Brief of Cross Appellants (Doc. No. 8) at 48-49 ("Of course, the Bankruptcy Court's ruling on Lumbermen's Motion to Compel need only be reversed if the Bankruptcy Court's ruling denying the Application to Retain GHR were reversed and remanded for further consideration ....").

s/ David Stewart Cercone
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United States District Judge

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